



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

September 20, 2018

Ms. Nicole Cohn
Drinker Biddle & Reath
105 College Road E Suite 300
Princeton, NJ 08542

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

RE: Freedom of Information Act Request EPA-HQ-2018-010183

Dear Ms. Cohn,

This is in response to your Freedom of Information Act requesting all policies, guidance, memoranda and analyses, existing at headquarters and/or in any of the Regions addressing Section 107(o) to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly referred to as Superfund) added by the 2002 Brownfield Amendments.

The Office of Site Remediation Enforcement (OSRE) has concluded its search for records responsive to your request. As Section 107(o) addresses the "de micromis exemption," we are providing you with information on EPA's de micromis policies and model documents that are publicly available on our web site. The link below provides the information:

https://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/index.cfm?action=3&sub_id=26 .

OSRE is withholding approximately 135 records in full. The records involve consultations between OSRE and regions addressing potential de micromis issues for specific sites. They are being withheld pursuant to: the 5 U.S.C. § 552(b)(5) exemption (the Deliberative Process Privilege, the Attorney Client Privilege and the Attorney Work Product Privilege). The records are exempt from disclosure because they are either pre-decisional and deliberative and would harm agency decision making if released; confidential communications between an agency attorney and client concerning legal advice; or are documents prepared by, or at the direction of, an attorney in contemplation of litigation. Some documents are also being withheld under the 5 U.S.C. § 552(b)(7)(E) exemption. Exemption 7(E) affords protection to all law enforcement information that "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

Regional offices manage individual Superfund sites and generally rely on the policies and model documents when negotiating enforcement settlements. Thus, the URL link provided above is likely the best repository for the information you seek. However, if you would like information related to a specific regional site, you will need to send a FOIA request to the appropriate regional office for any responsive records they may have.

This letter concludes our response to your request. You may appeal this response by email at hq.foia@epa.gov, or by mail to the EPA's National FOIA Office, U.S. EPA, 1200 Pennsylvania

Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., Room 5315, Washington, DC 20460. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals *received* after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." Additionally, you may seek dispute resolution services from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

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Should you have any questions concerning this matter, please feel free to contact Antoinette Powell-Dickson at (202) 564-5136 or powell-dickson.antoINETte@epa.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "Benjamin Lammie", is written over the typed name.

Benjamin Lammie

Deputy Director

Regional Support Division

Office of Site Remediation Enforcement